IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

Crl.MC.No. 474 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRRP.2823/2005

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PETITIONER:

CHERUPARAMBATH UNNI,
S/O.VELU, THRIKULAM, PARAPPANANGADI,
THIROORANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

2. PANCHARAYIL KUTTIMON,
S/O.APPUL, CHETTIPADY,
PARAPPANANGADI, MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.474 of 2007

Dated this the 23rd day of February 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The said verdict of guilty, conviction and sentence have now become final subject to the modification as per the order dated 03/11/2006 in Crl.R.P.No.2328 of 2005. The petitioner has been sentenced to undergo imprisonment till rising of court and "to pay" an amount of Rs.70,000/- as compensation and in default to undergo S.I for a period of three months. The petitioner was directed to appear before the learned Magistrate on 15/01/2007. Later, the petitioner came before this court and this court, by order dated 24/01/2007 directed the petitioner to deposit an amount of Rs.20,000/- within a period of ten days whereupon the petitioner was held entitled to time till 24/02/2007 to appear before the learned Magistrate, to pay the amount and avoid the default sentence.

2. According to the petitioner, he has deposited Rs.20,000/- and paid the balance amount of Rs.50,000/- to the

complainant. In these circumstances, the default sentence is not liable to be executed against him, submits the learned counsel for the petitioner. That appears to be an absolutely correct submission in as much as there was no direction ever to the petitioner to deposit the amount of compensation and the direction advisedly was only “to pay” the amount. The petitioner and the complainant can appear before the learned Magistrate and satisfy the learned Magistrate that an amount of Rs.50,000/- has been paid and together with the amount of Rs.20,000/- deposited, the petitioner has discharged the liability. If the learned Magistrate is satisfied with the said payment/deposit have been made, there can be no question of the default sentence being executed against the petitioner. The amount deposited shall be released to the complainant also.

3. This Criminal Miscellaneous Case is, in these circumstances, allowed and the above directions/observations are made.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006